

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

ROB SANDERS,

Respondent,

v.

CITY OF COLUMBIA, MISSOURI,

Appellant.

DOCKET NUMBER WD78460

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: February 9, 2016

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Patricia S. Joyce, Judge

JUDGES

Division Two: Mark D. Pfeiffer, P.J., and Lisa White Hardwick and James
Edward Welsh, JJ.

ATTORNEYS

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MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

ROB SANDERS,

Respondent,

v.

CITY OF COLUMBIA, MISSOURI,

Appellant.

**OPINION FILED:
February 9, 2016**

WD78460

Cole County

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, and Lisa White Hardwick and James Edward Welsh, Judges

The Chief of Police of Columbia, Missouri ("City"), terminated Rob Sanders's ("Sanders") employment as a police officer. Upon completion of the administrative appeal process mandated by City Code, Sanders requested a hearing before the City's Personnel Advisory Board ("PAB"). The PAB held an evidentiary hearing and recommended to the City Manager that Sanders be terminated. Thereafter, the City Manager terminated Sanders.

Sanders petitioned the circuit court for judicial review of the City Manager's decision. The circuit court, reviewing the petition as a contested case, issued its judgment reversing the City Manager's decision and ordering Sanders's reinstatement. The City appealed.

REVERSED AND REMANDED.

Division Two holds:

The resolution of this appeal rests on whether the circuit court was statutorily authorized to treat the City's final decision, by and through its City Manager, as a contested case as defined by the Missouri Administrative Procedure Act.

The evidentiary hearing Sanders received before the PAB did not determine his legal rights, duties, or privileges to continued employment with City. Instead, the final decision-making authority was vested in the independent discretion of the City Manager.

Although the City Code requires the City Manager to review the transcript and exhibits compiled by the PAB, there is nothing in the City Code limiting the City Manager to that evidence, and there is no requirement that the City Manager accept any recommendations of the PAB in arriving at a final decision on Sanders's legal right to continued employment.

Because the hearing before the PAB was not one in which Sanders's legal rights, duties or privileges were determined, this is not a contested case, and the circuit court lacked authority to afford judicial review as a contested case.

The circuit court's judgment is reversed, and the case is remanded for judicial review of the matter as a noncontested case pursuant to section 536.150.

Opinion by: Mark D. Pfeiffer, Judge

February 9, 2016

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